



## **PROPOSED RULE AMENDMENTS**

12NCAC 10B .0301: Minimum Standards for Justice Officers  
12NCAC 10B .0304: Medical Examination  
12NCAC 10B .0713: Admission of Trainees  
12NCAC 10B .2005: Minimum Training Requirements

### **Public Hearing**

August 1, 2017 10:00am  
1700 Tryon Park Drive  
Raleigh, NC 27610

### **Instructions for Oral and Written Comments**

The public comment period begins on July 15, 2017 and ends at 5:00 p.m. on September 15, 2017. Public comments shall be in writing and shall be directed to:

Diane Konopka  
North Carolina Department of Justice  
Sheriffs' Education and Training Standards Division  
Post Office Box 629  
Raleigh, NC 27602-0629

*"Public comment" is defined by NCGS 150B-21.3A(a)(5) as a written objection to all or part of a rule. Additionally, pursuant to NCGS 150B-21.3A(c)(2), in order for the Rules Review Commission to determine whether the public comment has merit, the public comment must address the specific substance of the rule and address any of the standards of Commission review, as set forth in NCGS 150B-21.9(a).*

Statutory Authority for Proposed Rules Changes: NCGS 17E.

## TITLE 12 – DEPARTMENT OF JUSTICE

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Sheriffs' Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 10B .0301, .0304, .0713, and .2005.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Sheriffs-Education-and-Training-Standards/All-Commission-Forms-and-Publications.aspx>

**Proposed Effective Date:** January 1, 2018

**Public Hearing:**

**Date:** August 1, 2017

**Time:** 10:00 a.m.

**Location:** 1700 Tryon Park Drive, Raleigh, NC 27610

**Reason for Proposed Action:**

**12 NCAC 10B .0301(a)(2)** – Lowers the minimum age requirement for certified telecommunicators from age 21 to 18.

**12 NCAC 10B .0304(a)** – Allows for waiver of additional Medical History Statement (Form F-1) and Medical Examination Report (Form F-2) for individuals who have previously completed the basic Telecommunicator Certification Course and who have been continuously employed as a telecommunicator.

**12 NCAC 10B .0713** – Lowers the minimum age requirement for admission of trainees into the basic Telecommunicator Certification Course from age 21 to 18.

**12 NCAC 10B .2005** – Sets out the annual in-service training topics for 2018.

**Comments may be submitted to:** Diane N. Konopka, PO Box 629, Raleigh, NC 27602; email [dkonopka@ncdoj.gov](mailto:dkonopka@ncdoj.gov)

**Comment period ends:** September 15, 2017

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

### CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

#### SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

##### SECTION .0300 – MINIMUM STANDARDS FOR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER

###### 12 NCAC 10B .0301 MINIMUM STANDARDS FOR JUSTICE OFFICERS

(a) Every Justice Officer employed or certified in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 21 years of age; age for all deputies and detention officers and be at least 18 years of age for all telecommunicators;
- (3) be a high school graduate, or the equivalent (GED);
- (4) have been fingerprinted by the employing agency;
- (5) have had a medical examination as set out in 12 NCAC 10B .0304;
- (6) have produced a negative result on a drug screen administered according to the following specifications:
  - (A) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory tests as may be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs [<http://workplace.samhsa.gov/>];



- (B) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
- (C) the drugs whose use shall be tested for shall include cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites; however, individual agencies may specify other drugs to be tested;
- (D) the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs are hereby incorporated by reference, and shall include any later amendments and editions of the referenced materials. Copies of this information may be obtained from the National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 [<http://www.drugabuse.gov/>] at no cost at the time of adoption of this Rule;
- (E) the test results shall be dated no more than 60 days before employment or appointment, whichever is earlier;
- (F) the laboratory conducting the test must be certified for federal workplace drug testing programs, and must adhere to applicable federal rules, regulations and guidelines pertaining to the handling, testing, storage and preservation of samples; and
- (G) every agency head shall make arrangements for the services of a medical review officer (MRO) for the purpose of review of drug tests reported by the laboratory and such officer shall be a licensed physician;
- (7) make the following notifications:
  - (A) within five business days, notify the Standards Division and the appointing department head in writing of all criminal offenses with which the officer is charged. This shall include all criminal offenses except minor traffic offenses. A minor traffic offense is any offense under G.S. 20 or similar laws of other jurisdictions; except those Chapter 20 offenses defined as either a Class A or B Misdemeanor as set out in 12 NCAC 10B .0103(10). The initial notification required must specify the nature of the offense, the date of offense, and the arresting agency. Within five business days, notify the Standards Division of all Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) which are issued by a judicial official against the justice officer and which provide an opportunity for both parties to be present;
  - (B) within 20 days of the date the case was disposed, notify the appointing department head of the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C). The department head, provided he or she has knowledge of the officer's charge(s), Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), shall also notify the Division within 30 days of the date the case or order was disposed of in court.
  - (C) within 30 days of the date the case was disposed, notify the Standards Division of the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C);
  - (D) the required notifications of adjudication must specify the nature of the offense, the court in which the case was handled and the date of disposition, and must include a certified copy of the final disposition from the Clerk of Court in the county of adjudication;
  - (E) receipt by the Standards Division of timely notification of the initial offenses charged and of adjudication of those offenses, from either the officer or the department head, is sufficient notice for compliance with this Subparagraph;
- (8) be of good moral character as defined in: *In re Willis*, 288 N.C. 1, 215 S.E.2d 771 (1975), appeal dismissed 423 U.S. 976 (1975); *State v. Harris*, 216 N.C. 746, 6 S.E.2d 854 (1940); *In re Legg*, 325 N.C. 658, 386 S.E.2d 174 (1989); *In re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *In re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E.2d 647 (1983); and their progeny;
- (9) have a background investigation conducted by the employing agency, to include a personal interview prior to employment as set out in Rules .0305 and .0306 of this Section;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 10B .0307.

(b) The requirements of this Rule shall apply to all applications for certification and shall also be applicable at all times during which the justice officer is certified by the Commission.

*Authority G.S. 17E-7.*

#### **12 NCAC 10B .0304 MEDICAL EXAMINATION**

(a) Each applicant for certification or enrollee in a Commission-certified basic training course shall complete, sign and date the Commission's Medical History Statement Form (F-1) and shall be examined by either a physician, surgeon, physician's assistant or nurse practitioner or other licensed independent practitioner who is licensed in North Carolina or who is authorized to practice medicine in accordance with the rules and regulations of the United States Armed Forces to help determine his/her fitness in carrying out the physical requirements of the position of justice officer. Effective January 1, 2018, Telecommunicators who have not previously held certification with this Commission, but who have been continuously employed by an entity other than a Sheriff's Office; and, who have previously provided a valid Medical History Statement (F-1) and Medical Examination Report (F-2) for admission into a Commission accredited Telecommunicator Certification Course shall not be required to submit additional F-1 and F-2 forms for the purpose of obtaining certification.

(b) Prior to conducting the examination, the physician, surgeon, physician's assistant or nurse practitioner or other licensed independent practitioner shall:

- (1) read the "Medical Screening Guidelines Implementation Manual for Certification of Justice Officers" in the State of North Carolina as published by the North Carolina Department of Justice. Copies of this publication may be obtained at no cost at the time of the adoption of this Rule by contacting the North Carolina Department of Justice, Sheriffs' Standards Division, PO Box 629, Raleigh, North Carolina 27602; and



- (2) read, sign, and date the Medical History Statement Form (F-1); and
  - (3) read the F-2A Form attached to the Medical Examination Report Form (F-2).
- (c) The examining physician, surgeon, physician's assistant or nurse practitioner or other licensed independent practitioner shall record the results of the examination on the Medical Examination Report Form (F-2) and sign and date the form.
- (d) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid one year from the date the examination was conducted and are completed prior to:
- (1) the applicant's beginning the Detention Officer Certification Course, the Basic Law Enforcement Training Course, or the Telecommunicator Certification Course; and
  - (2) the applicant's applying to the Commission for Certification.

Note: Although not presently required, it is recommended by the Commission that each candidate for the position of justice officer be examined by a licensed psychiatrist or clinical psychologist, or be administered a psychological evaluation test battery, to determine his/her suitability to perform the essential job functions of a justice officer.

*Authority G.S. 17E-7.*

## **SECTION .0700 - MINIMUM STANDARDS FOR JUSTICE OFFICER SCHOOLS AND TRAINING PROGRAMS OR COURSES OF INSTRUCTION**

### **12 NCAC 10B .0713 ADMISSION OF TRAINEES**

- (a) The school director shall not admit any individual as a trainee in any commission-certified basic training course who is not a citizen of the United States.
- (b) The school may not admit any individual younger than 21 years of age as a trainee in ~~any commission-certified basic training course~~ the Detention Officer Certification Course and may not admit any individual younger than 18 years of age as a trainee in the Telecommunicator Certification Course without the prior written approval of the Director of the Standards Division. The Director shall approve those individuals who will turn 21 years of age during the Detention Officer Certification Course ~~course~~, but prior to the ending date; and, those individuals who will turn 18 years of age during the Telecommunicator Certification Course, but prior to the ending date.
- (c) The school may not admit any individual who has not provided documentation that he or she meets the educational requirement as set out in 12 NCAC 10B .0302.
- (d) The school shall give priority admission in commission-certified basic training courses to individuals holding full-time employment with criminal justice agencies.
- (e) The school shall administer the reading component of a standardized test that reports a grade level for each trainee participating in either the Telecommunicator or Detention Officer Certification Course. The specific type of test instrument shall be determined by the school director and shall be administered within the first week of the Course. The grade level results on each trainee shall be submitted to the Commission on each trainee's Report of Student Course Completion.
- (f) The school shall not admit any individual as a trainee in a presentation of the Detention Officer Certification Course or the Telecommunicator Certification Course unless as a prerequisite the individual has provided to the certified school director a Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) in compliance with 12 NCAC 10B .0304. The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) required by the North Carolina Criminal Justice Education and Training Standards Commission shall be recognized by the Commission for the purpose of complying with this Rule.
- (g) The school shall not admit any individual trainee in commission-certified basic training courses unless as a prerequisite the individual has provided the certified School Director a certified criminal record check for local and state records for the time period where the trainee has resided within the past 10 years and where the trainee attended high school. An Administrative Office of the Courts criminal record check or a comparable out-of-state criminal record check will satisfy this requirement. If an individual trainee has received a probationary certificate from the Commission at the time of enrollment, this records check requirement is waived.
- (h) The school shall not admit any individual as a trainee in commission-certified basic training courses who has been convicted of the following:
- (1) a felony;
  - (2) a crime for which the punishment could have been imprisonment for more than two years;
  - (3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the date of appointment;
  - (4) four or more crimes or unlawful acts as defined as "Class B Misdemeanors" regardless of the date of conviction;
  - (5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be enrolled if the last conviction occurred more than two years prior to the date of enrollment; or
  - (6) a combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless of the date of conviction.
- (i) Individuals charged with crimes as specified in this Paragraph that were dismissed or the person was found not guilty may be admitted into the commission-certified basic training courses but completion will not ensure that certification as a justice officer through the Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course commission-certified basic training courses shall notify the School Director of all criminal offenses which the trainee is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty of, and notify the School Director of all Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (50C) which are issued by a judicial official that provide an opportunity for both parties to be present. This shall include all criminal offenses except minor traffic offenses. A minor traffic offense is defined for purposes of this Paragraph as any offense under G.S. 20 or similar laws of other jurisdictions except those Chapter 20 offenses published in the Class B Misdemeanor Manual. Other traffic offenses under laws of other jurisdictions which shall be reported to the School Director include



either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years, and driving while license permanently revoked or permanently suspended. The notifications required under this Paragraph must be in writing, must specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Order (G.S. 50B) or Civil No Contact Order (G.S. 50C), and the final disposition and the date thereof. The notifications required under this Paragraph must be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

*Authority G.S. 17C-4; 17E-7.*

## **SECTION .2000 - IN-SERVICE TRAINING FOR JUSTICE OFFICERS**

### **12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS**

(a) A Sheriff or Department Head may use a lesson plan developed by the North Carolina Justice Academy or a lesson plan for any of the topic areas developed by another entity. The Sheriff or Department Head may also use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training and as described in 12 NCAC 09B .0209. Lesson plans shall be designed to be delivered in hourly increments. A student who completes the training shall receive the number of credits that correspond to the number of hours assigned to the course, regardless of the amount of time the student spends completing the course, where each hour of instruction shall be worth one credit (e.g., "Legal Update" is designed to be delivered in four hours and will yield four credits). With the exception of Firearms Training and Requalification, successful completion of training shall be demonstrated by passing tests as developed by the delivering agency or as written by the North Carolina Justice Academy. A written test comprised of at least five questions per hour of training shall be developed by the delivering agency, or the agency may use the written test developed by the North Carolina Justice Academy, for each in-service training topic. A student shall pass each test by achieving 70 percent correct answers. Firearms Training and Requalification shall be demonstrated qualification with a firearm as set out in Section .2100 of this Subchapter.

~~(b) The 2016 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:~~

- ~~(1) Legal Update;~~
- ~~(2) Juvenile Minority Sensitivity Training: The color of Justice;~~
- ~~(3) Human Trafficking Awareness;~~
- ~~(4) NC Firearms Law: Citizens with Guns;~~
- ~~(5) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and~~
- ~~(6) Any topic areas of the Sheriff's choosing.~~

~~(c) The 2016 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) Career Survival: Stop! Think About What You Are Doing;~~
- ~~(2) Communicable Diseases;~~
- ~~(3) Detention Intelligence Update; and~~
- ~~(4) Understanding PREA; and~~
- ~~(5) Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(d) The 2016 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) Communicating Effectively with Crisis Callers;~~
- ~~(2) Becoming a Leader in the Communications Center;~~
- ~~(3) Handling Suicidal Callers; and~~
- ~~(4) Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(e)(b)~~ The 2017 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) Legal Update;
- (2) Positively Impacting Today's Youth;
- (3) Domestic Violence: Protecting Victims of Domestic Violence;
- (4) Improving Decision Making Skills;
- (5) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (6) Any topic areas of the Sheriff's choosing.

~~(f)(c)~~ The 2017 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Detention Legal Update;
- (2) Detention Intelligence Update;
- (3) Recognizing Substance Abuse and Withdrawal;
- (4) Improving Decision-Making Skills; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

~~(g)(d)~~ The 2017 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Post Critical Incident Stress Management;

- (2) Protecting Victims of Domestic Violence;
- (3) Improving Decision Making Skills;
- (4) Law Enforcement Intelligence Update; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

(e) The 2018 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) Legal Update;
- (2) Strategies to Improve Law Enforcement Interactions and Relationships with Minority Youth;
- (3) Equality in Policing;
- (4) Communications Skills With Persons In Crisis – De-escalation Techniques;
- (5) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (6) Any topic areas of the Sheriff's choosing.

(f) The 2018 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Recognizing Warning Signs and Strategies Associated with Mental Illness;
- (2) Equality in Detention Practices;
- (3) Communications Skills With Persons In Crisis – De-escalation Techniques;
- (4) Career Survival; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

(g) The 2018 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Communications Center Trainer;
- (2) Equality in Policing;
- (3) Communications Skills With Persons In Crisis – De-escalation Techniques; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

*Authority G.S. 17E-4; 17E-7.*